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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,338	10/12/2000	Oliver Opitz	FA/201	2659

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EXAMINER

TORRES VELAZQUEZ, NORCA LIZ

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 04/24/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/600,338	OPITZ, OLIVER	
	Examiner Norca L. Torres-Velazquez	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 November 2000 .

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-37 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-37 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_ .

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-7, 10-12, 15-24, 25-28 and 35-37 rejected under 35 U.S.C. 102(b) as being anticipated by DRISKILL et al. (US 4925732).

DRISKILL et al. discloses a laminate that comprises flexible moisture permeable adherends and a moisture permeable adhesive. The reference further discloses laminates that provide for both waterproof characteristics and breathability. (Abstract) The reference teaches the use of their laminate in applications such as apparel. (Column 1, lines 10-11).

DRISKILL et al. disclose that in one embodiment of their invention, one of the adherends is an expanded poly(tetrafluoroethylene) laminate and the other is leather. The waterproof characteristic is provided by the ePTFE laminate, the leather imparting characteristics such as aesthetics and durability if employed on the exterior. (Column 4, lines 67-68 through Column 5, lines 1-5). The reference further teaches that materials to be worn on the body or covering the foot must be “breathable” to be comfortable. (Column 5, lines 30-32) It further teaches that when at least one of the adherends contains flexible expanded poly(tetrafluoroethylene), it provides with pores that are microvoids that interconnect throughout the structure. Other adherends of choice in their invention are either leather or a textile, in combination with a breathable, waterproof laminate. Other useful flexible adherends include materials that are

woven, knitted, or nonwoven; membranes, coated materials, foams, composite materials, insulation, and films. (Column 6, lines 33-68)

In one of their examples, DRISKILL et al. teach the use of block polyurethane as the adhesive in a laminate comprising leather and a waterproof fabric material. (Column 12, lines 21-26).

Regarding claims 12, the claimed "spray rating" would be inherent to DRISKILL et al.'s invention.

Regarding claim 25, the claimed abrasion resistance would be an inherent property of DRISKILL et al.'s invention.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over DRISKILL et al. as disclosed above.

DRISKILL et al. teaches the use of leather of a thickness of 0.23 cm (2.3 mm) on Example 1; Column 10, line 43. It would have been an obvious to use a leather layer that has a thickness between 0.8 mm to 2 mm, or between 1 mm and 1.5 mm, since such a modification would have involved a mere change in the size of a component. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

5. Claims 5 and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over DRISKILL et al. as applied to claims 1-4, 6-7, 10-12, 15-24, 25-28 and 35-37 above, and further in view of McCONNELL et al. (US 4299933).

DRISKILL et al. does not disclose the use of an adhesive that is a copolyester or a copolyamide.

McCONNELL et al. discloses a composition comprising a linear thermoplastic copolyester and that certain polyesters are known to be useful as adhesives for bonding fabrics and leather. It further teaches that the polymers may be extrusion coated or applied from solutions to provide coatings for fabrics, metals, plastics, leather and wood. (Column 2, lines 1-8) Further, the reference teaches that their polyesters can be used to bond fabrics at relatively low temperatures and the bonded fabrics have good resistance to typical laundering procedures. The polymers may be used in *powder* form for fusible interlining pump applicators, or extruded into film form for use in laminating or bonding substrates. The polymers may also be melt blown into nonwoven webs which may be used to laminate fabrics or other articles. (Column 3, lines 33-42). In Example 3, the reference teaches the use of powder and dot application of the adhesive. (Column 5, lines 31-41)

Since both DRISKILL et al. and McCONNELL et al. from the same field of endeavor, lamination of fabrics and leather by adhesives, the purpose disclosed by McCONNELL et al. would have been recognized in the pertinent art of DRISKILL et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the laminate and provide it with a copolyester adhesive with

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the motivation of providing an alternative to polyurethane and providing resistance to typical laundering procedures as disclosed by McCONNELL et al. (Column 3, lines 35-36).

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over DRISKILL et al. as applied to claim 1 above, and further in view of KENIGSBERG et al. (US 5156780).

DRISKILL et al. does not disclose the use of a hydrophobicizer.

KENIGSBERG et al.'s invention involves impregnating a microporous substrate with a solution of a fluorinated monomer. The reference teaches that it is desirable to have porous materials that will repel water and oil, but at the same time allow the passage of air and other gases. (Column 1, lines 17-26)

KENIGSBERG et al. discloses a treated, porous substrate which manifests permanent water and oil repellency. Coating may be accomplished, for example, by dip coating, spraying or similar processes well known to those of skill in the art. The substrates prepared according to their invention can include: paper, woven, knitted and non-woven fabric; and it also teaches that the treatment may be applied to natural microporous materials such as leather. (Column 4, lines 33-62)

Since both DRISKILL et al. and KENIGSBERG et al. from the same field of endeavor, the purpose disclosed by KENIGSBERG et al. would have been recognized in the pertinent art of DRISKILL et al.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the laminate and provide it with a water repellent coating that includes a fluorocarbon with the motivation of having a porous material that will repel water and

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oil, but at the same time allows the passage of air and other gases as disclosed by KENIGSBERG et al. (Column 1, lines 17-26)

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The examiner can normally be reached on Monday-Thursday 7:30-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

nlt  
April 19, 2002



CHERYL A. JUSKA  
PRIMARY EXAMINER